

### **Remarks**

Claims 1, 15-20, and 22-25 are currently pending in this application. Claims 1, 15-20, and 22-25 remain rejected on arguments laid out in the Office Action mailed on October 28, 2008.

Claims 23 and 24 are cancelled by the present Amendment. Claim 17 had been amended in the Supplemental Response and Amendment filed on March 30, 2009 but the amendment had not yet been entered. Applicants respectfully request entrance of the above amendment.

#### **Priority claim**

The present Application was filed on October 17, 2003; a Preliminary Amendment was also filed on October 17, 2003. The Preliminary Amendment requested that the following paragraph be inserted to the specification on page 1 after the title of the invention and before the background of the invention:

“The present application is a divisional application of Application 09/292,031 (filed April 21, 1991), now allowed, which is a continuation-in-part of U.S. 08/774,154 (filed December 26, 1996), which claims the benefit of U.S. Provisional Application 60/009,293 (filed December 27, 1995) all of which are herein incorporated by reference in their entirety.”

In an Office Action mailed March 28, 2006, the Examiner noted that application number “60/009,293” should have been listed as “60/009,283.” Applicants corrected this inadvertent typographical error in a response filed on April 19, 2006.

The Office Action mailed March 28, 2006 asserted that the Preliminary Amendment filed on October 17, 2003 introduces new matter into the specification by incorporating the contents of all priority applications by reference in their entirety. In the response filed on April 19, 2006, in order to obviate the Examiner’s objection, Applicants amended the specification to limit the incorporation by reference only to application 09/292,031.

However, Applicants respectfully submit that the Preliminary Amendment filed on October 17, 2003 did not introduce new matter. Because the Preliminary Amendment was filed on the same day as the Application was filed, it is a part of the original disclosure of the

application under 37 C.F.R. § 1.115(a)(1). Furthermore, because the priority claim was made at the time of filing, it satisfies the provisions of 37 C.F.R. § 1.78(a)(2)(ii). Applicants also respectfully submit that the incorporation of each of the priority applications by reference is in compliance with 37 C.F.R. § 1.57. Applicants respectfully submit that the Examiner's comment that "The oath/declaration only claims priorities of 08/774,154 and 60/009,283 but fails to incorporate herein by reference" fails to impact the propriety of the incorporation by reference of priority applications as stated in the Preliminary Amendment filed October 17, 2003.

The present Amendment re-introduces the incorporation by reference of all priority applications in accordance with 37 C.F.R. § 1.115(a)(1), § 1.78(a)(2)(ii), and § 1.57 and should be entered.

#### Conclusion

Applicants again thank the Examiner for his careful review of the case. Applicants respectfully request consideration of the claims, as amended, based on the remarks presented in the Response filed on January 23, 2009, in the Supplemental Response filed March 30, 2009, and in the Appeal Brief filed March 31, 2009.

Applicants respectfully submit that Claims 1, 15-20, and 22 are now in condition for allowance. A Notice to this effect is respectfully requested.

Please charge any fees that may be associated with this matter, or credit any overpayments, to our Deposit Account No.: 03-1721.

Respectfully submitted,

/Brenda Herschbach Jarrell/

Brenda Herschbach Jarrell, Ph.D., J.D.  
Reg. No.: 39,223

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Choate, Hall & Stewart LLP  
Patent Group  
Two International Place  
Boston, MA 02110  
Tel: 617-248-5000  
Fax: 617-248-5002